

R E M A R K S

Claims 1, 3-4, 8, 10, 14-19, 23-31, 33-34 and 38-44 are in the case. Claims 2, 5-7, 9, 11-13, 20-22, 32 and 35-37 had been cancelled previously. Claim 45 has been cancelled without prejudice or disclaimer.

The above amendments are submitted to place the claims in condition for allowance or at least in better condition for appeal. Claims 1 and 31 have been amended to include the feature of cancelled Claim 45, a time range for a washing treatment. Support for these amendments can be found in the Specification at Page 8, paragraph 0020. Claim 29 has been amended to correct a clerical error. Entry of the above amendments is respectfully solicited.

Upon entry of the amendment, the Declaration by Dr. Liimatta will be commensurate in scope with the claims, since a contact time is a feature of the claims as amended.

Rejection under §103(a)

Claims 1, 3-4, 8, 10, 14-19, 23-31, 33-34, and 38-45 remain rejected under 35 U.S.C. 103(a) as obvious over Howarth (WO 03/001931) in view of Hilgren et al. (U.S. 6,514,556) and Yang et al. (U.S. 6,123,870). This rejection is again respectfully traversed.

Applicant's arguments in Response to the previous Office Action against the rejection of these claims under § 103(a) are reiterated herein by reference. Further, it is respectfully pointed out that a prior art reference must be considered in its entirety, *i.e.*, as a whole, including portions that would lead away from the claimed invention (M.P.E.P. § 2141.02). Thus, although the Office Action states that Hilgren et al. is "merely relied upon for the concept of using an inside-outside washing procedure to treat poultry carcasses", the teachings in Hilgren et al. which disparage the use of chlorinated biocides must also be taken into consideration. In particular, Hilgren et al. states that

[C]hlorinated compounds, organic acids, acidified sodium chlorite . . . [T]he use rate of these antimicrobials is very high because they are not effective at low concentrations or they tend to be rapidly consumed by the high organic load included with the poultry. *Excessive chlorination of food processing water with hypochlorite has prompted concern over production of toxic or carcinogenic organochlorine compounds and other by-products.* (Column 2, lines 20-30; emphasis added.)

The advantageous stability of mixed peroxy-carboxylic acid compositions in such methods, which include the presence of poultry debris or residue, makes these compositions competitive with cheaper, *less stable*, and *potentially toxic*

chlorinated compounds. (Column 19, lines 42-46; emphasis added.)

In these statements, Hilgren et al. is strongly discouraging the use of chlorine-based biocides altogether, in favor of the compositions taught in Hilgren et al. The teachings in Hilgren et al. would have led one of skill in the art away from combining Hilgren et al. with Howarth, which teaches halogen-based biocides, or with Yang et al., which teaches bromine compounds.

The Examiner has stated that Yang et al. is evidence that sulfamic acid will function as a stabilizer for bromine in biofoul control in food systems (Office Action of May 19, 2006, Page 3). However, food *systems* are not the same as *the food itself*. The mention of food processing in Yang et al. only states that the invention of Yang et al. can be used in "a food processing system" (column 3, lines 26-28) and "a beverage processing system" (column 3, lines 29-31). Moreover, Hilgren et al. points out at column 2, lines 37-39, that not all biocides are suitable for use with poultry: "Antimicrobial agents such as peroxides or lactic acid can result in discoloring, bleaching, or bloating of poultry tissue." Thus, it is not obvious that the compositions of Yang et al. would be compatible with *poultry*, muchless with *eviscerated poultry carcasses*.

Turning now to the Declaration by Dr. Liimatta submitted with the response to the previous Office Action, none of the cited references teaches or suggests that shorter contact times would show better results than longer contact times with the presently claimed microbiocidal compositions, which include sulfamate stabilized bromine chloride. Applicant submits that the significantly better bacterial reductions observed at 30 seconds versus those at 600 seconds are unexpected results, as it would normally be expected that longer contact times would result in better bacterial reduction. Further, the benefits seen at the shorter contact time are of particular relevance to the washing of poultry, where the amount of solution running over and/or through the carcass can be minimized without sacrificing biocidal effectiveness. Applicant reiterates that unexpected results are evidence of nonobviousness.

For the reasons stated, the cited references teach away from their combination. Thus, the Office Action fails to present a *prima facie* case of obviousness. Reconsideration and withdrawal of this §103(a) rejection is respectfully requested.

In view of the foregoing, it is believed that the case is in condition for allowance, and prompt notification to this effect is respectfully solicited. If the Examiner feels otherwise,

Applicants respectfully request the withdrawal of the finality of the rejections in this Office Action so that Applicants can have an opportunity to respond to any remaining objections or rejections.

If any matters remain in requiring further consideration, the Examiner is respectfully requested to telephone the undersigned so that such matters can be discussed, and if possible, promptly resolved.

Please continue to address all correspondence in this Application to Mr. Edgar E. Spielman, Jr. at the address of record.

Respectfully submitted,

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